



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

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Mailed and Filed: JUNE 14, 2022

IN THE MATTER OF:

Appeal Board No. 621852

PRESENT: GERALDINE A. REILLY, MEMBER

The Department of Labor issued the initial determinations disqualifying the claimant from receiving benefits, effective October 2, 2021, on the basis that the claimant voluntarily separated from employment without good cause; and, in the alternative, disqualifying the claimant from receiving benefits, effective October 2, 2021, on the basis that the claimant lost employment through misconduct in connection with that employment and holding that the wages paid to the claimant by prior to October 2, 2021 cannot be used toward the establishment of a claim for benefits. The claimant requested a hearing.

The Administrative Law Judge held hearings at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances by the claimant and on behalf of the employer. By decision filed March 04, 2022 (), the Administrative Law Judge sustained the initial determination of misconduct.

The claimant appealed the Judge's decision to the Appeal Board.

Based on the record and testimony in this case, the Board makes the following

**FINDINGS OF FACT:** The claimant worked for the employer, a healthcare facility, as a registered nurse, from August 26, 1991 to October 1, 2021. In order to comply with the New York State Department of Health COVID-19 vaccine mandate for all healthcare workers, the employer notified its employees that they were required to either become vaccinated by September 27, 2021 or submit a request for a religious or medical exemption by 5 pm on September 26, 2021. The

claimant refused the vaccine on religious grounds but did not want to complete the religious exemption form. She felt that the form violated her legal right to privacy, believing that it asked for too much information, such as the names of the religious organization she belonged to and its leader, as well as an explanation of how her religious beliefs were contrary to the use of the COVID-19 vaccine. The claimant also objected to the request form because it would be reviewed by a "panel of human resources representatives" whose identities she did not know. The claimant knew that the form had to be submitted before the employer could consider her request for a religious exemption.

The claimant advised the employer in writing on September 14, 2021 that she had a sincere religious belief that the vaccine violated. She felt that the employer should be satisfied with that. She was aware that she could not continue in her employment if she did not get vaccinated or submit the required religious exemption request form by the imposed deadlines. However, the claimant hoped that "cooler heads would prevail" and she would be allowed to keep her job even if she did neither. The claimant's employment ended on October 1, 2021 because she did not get vaccinated nor applied for a religious exemption by the imposed deadlines. The claimant could have continued in her employment if she had submitted the required exemption request form.

**OPINION:** The credible evidence establishes that the claimant's job ended because she did not submit a request for a religious exemption from the New York State Department of Health COVID-19 vaccine mandate by the imposed deadline, after refusing the vaccine on religious grounds. As the claimant was aware of the vaccine mandate but did not want to comply with it on religious grounds, it was incumbent upon her to preserve her employment by requesting an exemption for that reason. By refusing to do so by the known deadline, the claimant is deemed to have voluntarily quit continuing work. Her reluctance to complete the religious exemption form because she did not agree with providing the information it requested and did not know the identities of the persons who would review it, was based on personal considerations that do not constitute good cause for unemployment insurance purposes. Accordingly, it is concluded that her employment ended under nondisqualifying conditions and that she was properly denied benefits.

**DECISION:** The decision of the Administrative Law Judge is modified as follows and, as so modified, is affirmed.

The initial determination, disqualifying the claimant from receiving benefits, effective October 2, 2021, on the basis that the claimant voluntarily separated from employment without good cause, is sustained.

The claimant is denied benefits with respect to the issues decided herein.

GERALDINE A. REILLY, MEMBER